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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/823,287 | 04/13/2004 | Koitsu Morioka | 114141-020 | 4565 |
| 43793 | 7590 | 06/01/2005 | EXAMINER | |
| EVEREST INTELLECTUAL PROPERTY LAW GROUP P. O. BOX 708 NORTHBROOK, IL 60065 | | | BRITTAIN, JAMES R | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3677 | |

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/823,287 | Applicant(s) MORIOKA ET AL. | |
| | Examiner James R. Brittain | Art Unit 3677 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawing Objections

Figure 9 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP §608.02 (g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. §102(b) as being clearly anticipated by Figure 9 of this application identified by applicant as prior art with the description on page 10, ¶3, lines 1-3.

Figure 9 of this application teaches an air/water tight slide fastener with a pair of stringers wherein as indicated on page 10, ¶3, lines 1-3 the construction of the fastener elements, the U-shaped clamping element and slider are conventional and the end stop includes a flange portion 14b extending around the around the block. The flange portion extends extensively around the block enough to be integrally fixed to the opening edges of the article if so desired. While claim 1 indicates that “at least part of the flange portion be extensive enough to be integrally fixed to the opening edges of the article” (lines 17-19), this limitation is only a statement of intended use and does not claim the article in combination.

As to claim 2, the flange portion is made of a flexible material.

In regard to claim 3, the flange portions continuously extends over the lower side and a pair of first and second lateral sides of the block.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 are rejected under 35 U.S.C. §103(a) as being unpatentable over Figure 9 of this application identified by applicant as prior art with the description on page 10, ¶3, lines 1-3 in view of Krupp (US 2496878).

Figure 9 of this application teaches an air/water tight slide fastener with a pair of stringers wherein as indicated on page 10, ¶3, lines 1-3 the construction of the fastener elements, the U-shaped clamping element and slider are conventional and the end stop includes a flange portion 14b extending around the around the block. The flange portion extends extensively around the block enough to be integrally fixed to the opening edges of the article if so desired. The difference is that the slider is not shown as having a width less than the width of the opening in the article. It would have been obvious to size the slider so as to have a width less than the opening in the article in view of Krupp (figures 1, 2) teaches fastener structure with the slider as shown in figure 2 between the edges 16, 17 of the article and therefore less than the opening width of the article.

In regard to claim 5, Krupp suggests in figures 1 and 2 sizing the end stop so as to be wider than the slider so as to receive the slider therein.

As to claim 6, Krupp also suggests sizing the end stop so that it is wider than the separation of the edges 16, 17 of the article spaced from the end stop.

Conclusion

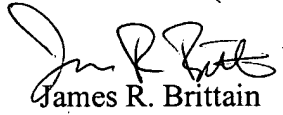
The patents of Fukuroi (US 3869765, figures 1, 5), Ebata (US 3895418, figure 1), Morioka et al. (US 6609863, figures 9-11; US 4658480, figure 1) and Kusayama (US 4780937, figure 1; US 4782563, figure 1; US 4817252, figure 1) teach pertinent zipper structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (571) 272-7065. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James R. Brittain
Primary Examiner
Art Unit 3677

JRB